Franchise Tax Board

SUMMARY ANALYSIS OF AMENDED BILL

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Bill Number: AB 1390

Related Bills: See Prior Analysis
Telephone: 845-4336
Amended Date: 05/13/03

Attorney: Patrick Kusiak
Sponsor:

SUBJECT: Fuel-Efficient Vehicle Credit

____	DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended ________________________.
X	AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.
____	AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended ________________________.
____	FURTHER AMENDMENTS NECESSARY.
____	DEPARTMENT POSITION CHANGED TO ________________________.
X	REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED February 21, 2003, STILL APPLIES.
X	OTHER - See comments below.

SUMMARY

This bill would allow a tax credit for purchases of new fuel-efficient vehicles if the Department of Finances (DOF) certifies that it finds projected state revenues will exceed projected state expenditures.

This analysis discusses only the implementation and administration of the tax credit. Staff defers to the DOF on the provisions regarding the certified findings.

SUMMARY OF AMENDMENTS

These May 13, 2003, amendments would:

- Delay the operative date of the tax credit to taxable years beginning on or after January 1, 2004, instead of January 1, 2003.
- Add alternative fuel vehicles to the type of vehicles that would qualify for the tax credit.
- Define "new" purchases.
- Require that the fuel-efficient vehicle be registered in California from the date of purchase throughout the taxable year for which the credit is claimed.

Board Position:			Legislative Director	Date
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- Limit the carryover period to six years.

- Reduce the tax credit by the amount of any grants, rebates, or credits issued by other governmental entities.

The May 5, 2003, amendments would:

- Limit the credit to purchases of new fuel efficient vehicles,

- Provide additional information about the required fuel efficiency of the vehicle, and

- Condition the operative date of the tax credit on a certified finding by DOF that projected state revenues equal or exceed projected state expenditures.

EFFECTIVE/OPERATIVE DATE

This bill is a tax levy, thus, it would be effective immediately. As amended May 13, 2003, the tax credit would apply to taxable years beginning on or after January 1, 2004, and before January 1, 2008.

POSITION

Pending.

Summary of Suggested Amendments

Department staff is available to assist with amendments to resolve the implementation considerations discussed in this analysis.

ANALYSIS

The federal and state tax law discussion in the previous analysis of the bill as introduced still applies.

<u>THIS BILL</u>

This bill would allow taxpayers that purchase new fuel-efficient vehicles a tax credit equal to 20% of the amount paid or incurred during the taxable year, not to exceed $2,000, for the purchase of that vehicle.

"Fuel-efficient vehicle" would be defined as a new vehicle as described in Section 430 of the Vehicle Code that qualifies as either:

1. an alternative fuel vehicle as defined in Section 2580 (a) of the Streets and Highway Code, or

2. a "qualified vehicle" that achieves a "combined miles per gallon economy" that is at least 35 % greater than the average miles per gallon fuel economy achieved by the 2003 models of new vehicles in the same CALCARS vehicle class. "Fuel-efficient vehicle" does not include any vehicle with a "combined miles per gallon fuel economy" of less than 21 miles per gallon.

"Qualified vehicle" would mean any vehicle evaluated by the California Energy Commission under the California Light Duty Vehicle Conventional and Alternative Fuel Response Simulator (CALCARS) program.

"Combined miles per gallon fuel economy" for a qualified vehicle would be based on the miles per gallon estimates calculated by CALCARS and would be calculated using a formula that allocates 55% as city miles per gallon and the remaining 45% as highway miles per gallon.

The credit would have to be reduced, but not below zero, by the amount of any grant, rebate, or credit issued to the taxpayer by the State Air Resources Board, or any other state or local agency.

The credit would be allowed only if that taxable year includes, or follows, the first fiscal year for which the DOF makes a certified finding that projected state revenues will equal or exceed projected state expenditures. The certification would be submitted to the Legislature and the Governor no later than June 15 of the fiscal year prior to the fiscal year for which the certified finding is made. DOF would be required to consider all relevant economic indicators, which would include:

- Actual tax receipts collected by the Franchise Tax Board (FTB), and
- Projected revenue losses for the next fiscal year that would be attributable to the credit authorized by this section.

This bill would allow any unused credit to be carried over for six years.

This credit would remain in effect until January 1, 2009, and as of that date would be repealed.

IMPLEMENTATION CONSIDERATIONS

For FTB to implement and administer this tax credit, actions by other state agencies must occur.

To implement this tax credit, DOF would have to certify by June 15 that state revenues equal or exceed state expenditures and the following considerations are identified:

- The bill requires the certification to be submitted to the Legislature and the Governor, but it is unclear if the Legislature and Governor, or someone else, will notify FTB that the DOF's certified findings are appropriate and the credit is, hence, allowable.

- The bill requires DOF's certified findings to be made by June 15, which is the date the California Constitution requires for the budget bill to be passed by the Legislature. Under the bill, if June 15 passes without DOF certification, it appears the credit would not be allowed for that year; however, it is unclear if that is the author's intent, if the budget bill has not been passed by that date.

To administer this tax credit, the California Energy Commission and California Air Resources Board would need to identify which vehicles would qualify for the tax credit, and the following consideration is identified:

According to California Air Resources Board and California Energy Commission staff, they would use their existing programs to identify the vehicles that would qualify for this tax credit.

A list of the qualifying vehicles would be available on their web sites. The information would also be readily available for FTB's tax administration purposes, as needed. As the bill moves through the legislative process, FTB will continue to work with staff of the California Energy Commission and California Air Resources Board on a plan to implement and administer this tax credit. If any concerns are identified, amendments will be suggested.

TECHNICAL CONSIDERATIONS

The term "combined miles per gallon fuel economy" is used several places in the bill, but in one place the word fuel is missing (page 3, line 30, and page 5, line 40). The attached Amendment 1 makes the suggested change.

According to the author's staff, the provision in the bill that requires the tax credit to be reduced by the amount of any State Air Resources Board or state or local government-issued grant, rebate, or credit resulted from a policy consideration that the taxpayer may receive a double benefit from both a tax credit and government-issued grant/rebate/credit. However, the grant/rebate/credit typically results in a reduction in the purchase price on which the credit is then computed; therefore, a double benefit would not result unless the taxpayer were to claim both a tax credit and tax deduction for the same expense, as discussed under policy considerations. Amendments 2 and 4 would clarify that the grant, rebate, or credit would apply to and reduce the purchase price. Amendments 3 and 5 would provide language that would remove the double tax benefit for the same expense.

FISCAL IMPACT

Implementing this bill should not significantly impact the department's programs or operations.

ECONOMIC IMPACT

Revenue Estimate

Staff previously estimated that the revenue loss attributable to this bill would have been approximately $88 million annually for every 5% of auto sales in this state. However, that revenue estimate is reduced in this analysis, because:

- new data about fuel-efficient vehicles became available, and
- the May 5, 2003, and May 13, 2003, amendments limit the tax credit to new vehicles registered in California and limit "qualified vehicles" to those vehicles evaluated under the CALCARS program.

Based on the discussion below, the following table reflects the potential annual revenue losses over an initial four tax year cycle for which DOF certifications would be in effect. Actual revenue losses may not commence for several years due to the current budget situation.

Revenue Impact of AB1390 As Amended May 13, 2003 Initial Tax Year Cycle * (In Millions)			
2004	**2005**	**2006**	**2007**
-$35	-$55	-$80	-$100

* Assumes 2004 as the first year of the four-year cycle for illustration purposes only.

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

Revenue Discussion

The impact of this bill would depend upon whether the DOF could certify that the state's revenues will equal or exceed state expenditures, the number of taxpayers purchasing new fuel-efficient vehicles, the purchase cost of the vehicle, the number of vehicles purchased, and the average credit applied against tax liabilities.

For purposes of this analysis, the 2000 California Statistical Abstract reflecting vehicle records for 1999 was used. In addition, the following assumptions were used: (1) the average applied credit will be $1,450 based on both departmental data for corporate taxpayers and from the department's Personal Income Tax model, (2) 9% of all vehicles purchased would be government (exempt) purchases, of which 10% will be fuel-efficient vehicles (per California Energy Commission's fuel efficiency strategies), and (3) total passenger vehicle sales is estimated to increase by 2% annually; of which those attributable to fuel-efficient vehicles will increase by 1% annually. Further, approximately 10% of vehicle purchases would be for business use subject to a deductible business expense, however, because of rounding of numbers associated with determining the number of vehicles at issue and the amount of the applied tax credit, this rounding of numbers generally absorbs the relatively small loss attributable to the business expense deduction, and, therefore, this loss is not identified as being included in the calculation discussed below.

To arrive at the annual revenue loss, information from the 2000 California Statistical Abstract indicated that 1.6 million vehicles were registered for the first time in California for 1999. This number was grown to approximate 2004 registrations, which is estimated to be 1.8 million. From this total, it is assumed that 75% of these vehicles would be newly purchased vehicles (1.8 million x .75 = 1.4 million). Further, it is estimated that sales of fuel-efficient vehicles as defined under this bill would represent approximately 2.8% of the total passenger vehicle sales for 2004, based on:

- published information about the number of vehicle models available in 2003, and
- the number of those models that may be fuel-efficient vehicles for purposes of this bill.

Therefore, the number of potential qualifying vehicles is estimated to be approximately 39,000 (1.4 million x 2.8% = 39,000).

Of this number, it is estimated that approximately 13,000 (9% x 1.4 million x 10% = 13,000) would be attributable to exempt government purchases not applicable to the tax credit. This yields approximately 26,000 vehicles (1.4 million vehicles x 2.8% - 13,000 = 26,000) subject to the tax credit of which $1,450 would be applied against the taxpayer's tax. Hence, the revenue loss for 2004 would be approximately $37 million (26,000 x $1,450= $37.7 million), rounded to $35 million.

ARGUMENTS/POLICY CONCERNS

A double tax benefit results whenever a credit is provided for an item that is already currently deductible as a business expense or is depreciable. On the other hand, making an adjustment to reduce basis in order to eliminate the double benefit creates a difference between state and federal taxable income, which is contrary to the state's general federal conformity policy.

LEGISLATIVE STAFF CONTACT

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 1390
As Amended May 13, 2003

AMENDMENT 1

On page 3, line 31, and page 5, line 40, after "gallon" insert:

fuel

AMENDMENT 2

On page 4, line 12, strike out "The" and insert:

(1) The purchase price of the vehicle for purposes of determining the amount of the

AMENDMENT 3

On page 4, between lines 16 and 17, insert:

(2) The amount of any deduction otherwise allowable under this part for the purchase of a new fuel efficient vehicle shall be reduced by the amount of the credit allowed under this section.
(3) The basis for any vehicle for which a credit is allowed under this section shall be reduced by the amount of the credit attributable to the purchase of the vehicle.

AMENDMENT 4

On page 6, line 21, strike out "The" and insert:

(1) The purchase price of the vehicle for purposes of determining the amount of the

AMENDMENT 5

On page 6, between lines 25 and 26, insert:

(2) The amount of any deduction otherwise allowable under this part for the purchase of a new fuel efficient vehicle shall be reduced by the amount of the credit allowed under this section.
(3) The basis for any vehicle for which a credit is allowed under this section shall be reduced by the amount of the credit attributable to the purchase of the vehicle.